

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
LITTLE ROCK DIVISION

CHANDRA LYONS CORTEZ,
CORNELIO CORTEZ

Plaintiff,

VS.

S N SERVICING, SHAPRIO LAW
FIRM

Defendant.

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NO: 4:09CV00057 JMM

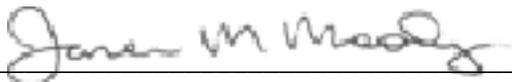
Order

Plaintiffs commenced this action *pro se*. Their claims appear to involve a mortgage. Along with the complaint, Plaintiffs filed an application to proceed *in forma pauperis* and a motion for appointment of counsel.

The Eighth Circuit has instructed that the decision of whether a complaint is frivolous or malicious precedes the decision of whether to grant *in forma pauperis* status and whether to order service of process. *See Carney v. Houston* 33 F.3d 893, 895 (8th Cir. 1994)(quoting *Gentile v. Missouri Dept. Of Corrections*, 986 F.2d 214 (8th Cir. 1993)). “If the complaint is frivolous or malicious, the district court should dismiss it out of hand.” *Id.* A complaint is frivolous where it lacks an arguable basis either in law or fact. *See Neitzke v. Williams*, 490 U.S. 319, 325-27 (1989). Plaintiffs’ complaint in this case is incomprehensible. Therefore, the Court will dismiss Plaintiffs’ complaint unless they amend the complaint to specify the facts upon which the claims are based and the alleged violations of the law. Plaintiff must file an amended

complaint within thirty (30) days of the date of this Order. Failure to do so will result in dismissal of the complaint.

SO ORDERED this 29th day of January 2009.


UNITED STATES DISTRICT JUDGE